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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,352	07/17/2003	Rani Yadav-Ranjan	361916-991110	9049
26379	7590	02/01/2011		
DLA PIPER LLP (US) 2000 UNIVERSITY AVENUE EAST PALO ALTO, CA 94303-2248			EXAMINER LONG, PONYA M	
			ART UNIT 3689	PAPER NUMBER
			NOTIFICATION DATE 02/01/2011	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PatentDocketingUS-PaloAlto@dlapiper.com

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/623,352

Applicant(s)

YADAV-RANJAN, RANI

Examiner

FONYA LONG

Art Unit

3689

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 December 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(g).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or applicant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____

/Jamisie A. Plucinski/
Supervisory Patent Examiner, Art Unit 3629

/FONYA LONG/
Examiner, Art Unit 3689

Continuation of 11, does NOT place the application in condition for allowance because: Applicant's arguments have been reconsidered but are not persuasive. As per Applicant's arguments regarding 112 2nd rejection for claims 1, 2, 11, and 12, Examiner respectfully disagrees. Examiner asserts claims 1 and 11 recite the formula generating a contractor risk assessment score by combining the weighted average of scores of the historical contract variables Claims 2 and 12 also discloses the contractor risk assessment score not by determining a weighted average of scores but by the cumulative sum of assigned score on historical contract variable being divided by the cumulative sum of the maximum score on historical contract variables which is then multiplied by 100. Examiner asserts that the formulas contradict each other. As per Claim 1, Applicant argues Flynn fails to disclose "said program extracts data from one or more external database and collects historical contract variables from the extracted external database data." Examiner respectfully disagrees. Examiner asserts Flynn discloses extracting data from external databases and collecting historical contractor variables from the extracted external database via Page 9 disclosing the process server 130 transmitting data to and from historical data file 180 daily at an undisclosed random time via an off-line storage 140 (i.e. external database). Pages 12-14, discloses collecting historical contract contractor information via historical data file, such as past financial data concerning past customer's character, credit and mortgage histories, and judgments. In response to Applicant's argument that Examiner has asserts that Flynn fails to disclose one or more contractor structure variables, one or more size of contractor business variables, one or more contractor stability variables, one or more contractor engagement variables, and one or more contract performance variables, Examiner asserts that Flynn discloses collecting contractor variables via Pages 12-14 discloses collecting historical contractor information such as past financial data, data concerning past customer's character, credit and mortgage histories, and judgments. Examiner also asserts that the type of historical variables holds little patentable weight in the method and system claim. Examiner asserts that the method of assigning a score to historical contractor variables would be performed the same regardless of the type of variable.